

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Adkins offered the following:

Amendment (with title amendment)

Remove lines 87-200 and insert:

pursuant to the requirements of chapter 744 that there is a good
 faith basis to believe that the child qualifies for appointment
 of a guardian advocate, limited guardian, or plenary guardian
 for the child and that no less restrictive decisionmaking
 assistance will meet the child's needs:

a. The department shall complete a multidisciplinary
 report which must include, but is not limited to, a psychosocial
 evaluation and educational report if such a report has not been
 completed within the previous 2 years.

b. The department shall identify one or more individuals
 who are willing to serve as the guardian advocate pursuant to s.
 393.12 or as the plenary or limited guardian pursuant to chapter

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18 744. Any other interested parties or participants may make
19 efforts to identify such a guardian advocate, limited guardian,
20 or plenary guardian. The child's biological or adoptive family
21 members, including the child's parents if the parents' rights
22 have not been terminated, may not be considered for service as
23 the plenary or limited guardian unless the court enters a
24 written order finding that such an appointment is in the child's
25 best interests.

26 c. Proceedings may be initiated within 180 days after the
27 child's 17th birthday for the appointment of a guardian
28 advocate, plenary guardian, or limited guardian for the child in
29 a separate proceeding in the court division with proper
30 jurisdiction over guardianship matters and pursuant to chapter
31 744. The legislature encourages the use of pro bono
32 representation to initiate proceedings under this section.

33 3. In the event another interested party or participant
34 initiates proceedings for the appointment of a guardian
35 advocate, plenary guardian, or limited guardian for the child,
36 the department shall provide all necessary documentation and
37 information to the petitioner to complete a petition under
38 chapter 393 or chapter 744 within 45 days after the first
39 judicial review hearing after the child's 17th birthday.

40 4. Any proceedings seeking appointment of a guardian
41 advocate or a determination of incapacity and the appointment of
42 a guardian must be conducted in a separate proceeding in the
43 court division with jurisdiction over guardianship matters and

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44 pursuant to chapter 744.

45 (c) If the court finds at the judicial review hearing that
46 the department has not met its obligations to the child as
47 stated in this part, in the written case plan, or in the
48 provision of independent living services, the court may issue an
49 order directing the department to show cause as to why it has
50 not done so. If the department cannot justify its noncompliance,
51 the court may give the department 30 days within which to
52 comply. If the department fails to comply within 30 days, the
53 court may hold the department in contempt.

54 Section 3. Paragraph (c) is added to subsection (2) of
55 section 393.12, Florida Statutes, to read:

56 393.12 Capacity; appointment of guardian advocate.—

57 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

58 (c) If a petition is filed pursuant to this section
59 requesting appointment of a guardian advocate for a minor who is
60 the subject of any proceeding under chapter 39, the division of
61 the court with jurisdiction over guardianship matters has
62 jurisdiction over the proceedings pursuant to this section when
63 the minor reaches the age of 17 years and 6 months or anytime
64 thereafter. The minor shall be provided all the due process
65 rights conferred upon an alleged developmentally disabled adult
66 pursuant to this chapter. The order of appointment of a guardian
67 advocate under this section shall issue upon the minor's 18th
68 birthday or as soon thereafter as possible. Any proceeding
69 pursuant to this paragraph shall be conducted separately from

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70 any other proceeding.

71 Section 4. Subsection (1) of section 744.301, Florida
72 Statutes, is amended to read:

73 744.301 Natural guardians.—

74 (1) The parents jointly are the natural guardians of their
75 own children and of their adopted children, during minority,
76 unless the parents' parental rights have been terminated
77 pursuant to chapter 39. If a child is the subject of any
78 proceeding under chapter 39, the parents may act as natural
79 guardians under this section unless the dependency or probate
80 court finds that it is not in the child's best interests. If one
81 parent dies, the surviving parent remains the sole natural
82 guardian even if he or she remarries. If the marriage between
83 the parents is dissolved, the natural guardianship belongs to
84 the parent to whom sole parental responsibility has been
85 granted, or if the parents have been granted shared parental
86 responsibility, both continue as natural guardians. If the
87 marriage is dissolved and neither parent is given parental
88 responsibility for the child, neither may act as natural
89 guardian of the child. The mother of a child born out of wedlock
90 is the natural guardian of the child and is entitled to primary
91 residential care and custody of the child unless the court
92 enters an order stating otherwise.

93 Section 5. Subsection (1) of section 744.3021, Florida
94 Statutes, is amended, and subsection (4) is added to that
95 section, to read:

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96 744.3021 Guardians of minors.—

97 (1) Except as provided in subsection (4), upon petition of
98 a parent, brother, sister, next of kin, or other person
99 interested in the welfare of a minor, a guardian for a minor may
100 be appointed by the court without the necessity of adjudication
101 pursuant to s. 744.331. A guardian appointed for a minor,
102 whether of the person or property, has the authority of a
103 plenary guardian.

104 (4) If a petition is filed pursuant to this section
105 requesting appointment of a guardian for a minor who is the
106 subject of any proceeding under chapter 39 and who is aged 17
107 years and 6 months or older, the division of the court with
108 jurisdiction over guardianship matters has jurisdiction over the
109 proceedings under s. 744.331. The alleged incapacitated minor
110 under this subsection shall be provided all the due process
111 rights conferred upon an alleged incapacitated adult pursuant to
112 this chapter and applicable court rules. The order of
113 adjudication under s. 744.331 and the letters of limited or
114 plenary guardianship may issue upon the minor's 18th birthday or
115 as soon thereafter as possible. Any proceeding pursuant to this
116 paragraph shall be conducted in separately from any other
117 proceeding.

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120 **T I T L E A M E N D M E N T**

121 Remove lines 22-44 and insert:

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122 proceeding in guardianship court; amending s. 393.12, F.S.;

123 providing that the guardianship court has jurisdiction over

124 proceedings for appointment of a guardian advocate if petitions

125 are filed for certain minors who are subject to chapter 39,

126 F.S., proceedings if such minors have attained a specified age;

127 providing that such minor has the same due process rights as

128 certain adults; providing requirements for when an order

129 appointing a guardian advocate must be issued; providing that

130 proceedings seeking appointment of a guardian advocate for

131 certain minors be conducted in separate proceedings; amending s.

132 744.301, F.S.; providing that if a child is subject to

133 proceedings under chapter 39, F.S., the parents may act as

134 natural guardians unless the dependency or probate court finds

135 that it is not in the child's best interests or their parental

136 rights have been terminated; amending s. 744.3021, F.S.;

137 requiring the guardianship court to initiate proceedings for

138 appointment of guardians for certain minors who are subject to

139 chapter 39, F.S., proceedings if petitions are filed and if such

140 minors have reached a specified age; providing that such minor

141 has the same due process rights as certain adults; providing

142 requirements for when an order of adjudication and letters of

143 limited or plenary guardianship must be issued; providing that

144 proceedings seeking appointment of a guardian advocate for

145 certain minors be conducted in separate proceedings; providing

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